

U.S. Patent Application Serial No. 09/725,314
Response dated April 22, 2004
Reply to OA of March 3, 2004

REMARKS

Claim 1 has been amended in order to more particularly point out, and distinctly claim the subject matter to which the applicants regard as their invention. The applicants respectfully submit that no new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated March 3, 2004.

Claims 1, 3 - 6 and 16 stand rejected under 35 USC §112, second paragraph, for the specific reasons set forth in item 2, pages 2 and 3 of the outstanding Action. The applicants respectfully request reconsideration of this rejection.

In the outstanding indefiniteness rejection, the Examiner has taken the position that there exists conflicting language between the claims and the applicants' specification. More particularly, the Examiner states that:

[t]he conflict between the claim and the specification is that the claims suggests the face becomes concave because of the axial force fluctuation means when the bucket tooth is bolted on the bucket, whereas the specification discloses that the concave face is a part of the axial force fluctuation means and is present before the bucket tooth is bolted on the bucket.^{1/} (Emphasis in original.)

^{1/} See, lines 11-15, item 2, page 2 of the outstanding Action.

U.S. Patent Application Serial No. 09/725,314
Response dated April 22, 2004
Reply to OA of March 3, 2004

The Examiner makes use of the same reasoning with respect to both independent claims 1 and 5.

The applicants respectfully submit that there is no such conflicting language between the claims and the applicants' specification, as alleged by the Examiner. In fact, there are numerous discussions, as early as in the "Summary of the Invention" portion of the applicants' specification with respect to the axial force fluctuations absorbing means occurring "after attaching the bucket tooth to the bucket lip"(emphasis added).^{2/} Further, lines 11 - 13, page 3 of the applicants' specification describe that:

after the bucket tooth is attached to the bucket lip, fluctuations in axial force of the fastening bolt are absorbed by the axial force fluctuation absorbing means.

Moreover, in, for example, lines 9 - 18, page 5 of the applicants' specification, it is described that the axial force fluctuation absorbing means allows the bucket tooth to generate the resilient return force in a condition in which "the fastening bolt is inserted."

Based on the above, contrary to the Examiner's position that the applicants' specification describes the existence of the axial force fluctuations "before the bucket tooth is bolted on the

^{2/} See, e.g., lines 9 and 10, page 3 of the applicants' specification.

U.S. Patent Application Serial No. 09/725,314
Response dated April 22, 2004
Reply to OA of March 3, 2004

bucket,"^{3/} such applicants' axial force fluctuation absorbing means, as described in the applicants' specification, occurs "after attaching the bucket tooth," which is consistent with the language of the claims.

The applicants' above comments also address the Examiner's comments set forth in lines 4 - 6, item 8, page 4 of the outstanding Action.

In view of the above, the withdrawal of the outstanding indefiniteness rejection under 35 USC §112, second paragraph, is in order, and is therefore respectfully solicited.

As to the merits of this case, the applicants thank the Examiner for now withdrawing his previous reliance on the Mauer (U.S. Patent No. 4,360,982) reference, as relied upon in the last Office Action.

However, the Examiner now relies on new references in setting forth the following rejections:

(1) claim 1 stands rejected under 35 USC §102(b) as being anticipated by the British Patent Publication No. 2,176,520;

(2) claim 3 stands rejected under 35 USC §103(a) based on the British Patent Publication;

^{3/}Again, please see, lines 13 - 15, page 2 of the outstanding Action.

U.S. Patent Application Serial No. 09/725,314
Response dated April 22, 2004
Reply to OA of March 3, 2004

and

(3) claims 4 - 6 and 16 stand rejected under 35 USC §103(a) based on the British Patent Publication in view of Rose (of record).

The applicants respectfully request reconsideration of these rejections.

The British Patent Publication discloses a tooth portion 2 mounted on a front area of an assembly plate 1 on retaining blocks 3.

First, with the embodiments of the tooth 2 of the British Patent Publication, the back surface thereof facing the assembly plate 1 is not "a concave face," as recited in the applicants' claims. That is, the tooth 2 in the British Patent Publication has a significant recess for accommodating therein the retaining blocks 3.

Secondly, because of the retaining blocks in the device disclosed in the British Patent Publications, there is no amount of warping in such device, as defined by an equation set forth in the applicants' claim 3 and described in lines 18 and 19, page 13 of the applicants' specification.

U.S. Patent Application Serial No. 09/725,314
Response dated April 22, 2004
Reply to OA of March 3, 2004

Furthermore, in the device disclosed in the British Patent Publication, there is no space, as defined between the applicants' lip 5 and the applicants' bucket tooth 6, as illustrated in the applicants' Figure 3.

In order to highlight such structural arrangements, the applicants have amended independent claim 1 so as to specifically recite that the axial force fluctuation absorbing means provides resilient return force during the fluctuations in axial force by forming a warp in the tooth beforehand and by forming a space between the bucket lip and bucket tooth before fastening. Such claimed structural arrangements are not found in the teachings of the British Patent Publication.

In view of the above, the applicants respectfully submit that not all of the claimed elements or features are found in exactly the same situation and united in the same way to perform the identical function in the device taught in the British Patent Publication. As such, there can be no anticipation under 35 USC §102(b) of the applicants' claimed invention, as now set forth in independent claim 1.

Accordingly, the withdrawal of the outstanding anticipation rejection under 35 USC §102(b) based on the British Patent Publication No. 2,176,520 is in order, and is therefore respectfully solicited.

U.S. Patent Application Serial No. 09/725,314
Response dated April 22, 2004
Reply to OA of March 3, 2004

As to the remaining rejections, independent claim 5 already recites the existence of “a gap between said one face side and said bucket lip.”

The secondary reference of Rose is merely relied upon by the Examiner for teaching a device to “spot face an element on the side facing the surface to which it is to be bolted,” as stated in lines 4 - 6, item 7, page 4 of the outstanding Action. More importantly, such secondary reference of Rose does not supplement the above-discussed deficiencies or drawbacks in the teachings of the British Patent Publication in failing to fully meet the applicants’ claimed invention.

In view of the above, the applicants respectfully submit that a person of ordinary skill in the art would have not have found the applicants’ claimed invention obvious under 35 USC §103(a) based on the British Patent Publication, singly or in combination with the secondary reference of Rose.

Accordingly, the withdrawal of the outstanding obviousness rejections under 35 USC §103(a) based on the British Patent Publication, singly or in combination with Rose, is in order, and is therefore respectfully solicited.

U.S. Patent Application Serial No. 09/725,314
Response dated April 22, 2004
Reply to OA of March 3, 2004

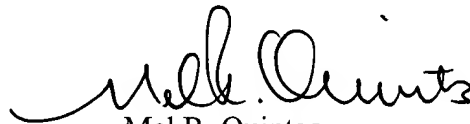
In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicants' undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper to Deposit Account No. 01-2340.

Respectfully submitted,

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP



Mel R. Quintos
Attorney for Applicants
Reg. No. 31,898

MRQ/lrj/ipc

Atty. Docket No. 001337
Suite 1000
1725 K Street, N.W.
Washington, D.C. 20006
(202) 659-2930



23850

PATENT TRADEMARK OFFICE